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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Jerome F. McAleer, et al.

Serial No. : 09/869,887

Art Unit: 1753

Filed : February 20, 2002

Examiner: Noguerola, Alexander S.

For : Disposable Test Strips with Integrated Reagent/Blood Separation Layer

Commissioner for Patents  
Washington, D.C. 20231

### REVOCATION OF ASSOCIATE POWER OF ATTORNEY BY ASSIGNEE AND CHANGE OF CORRESPONDENCE ADDRESS

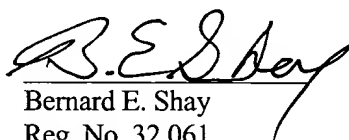
Sir:

In the matter of the above-identified application, Diabetes Diagnostics, Inc., hereby revokes all previously granted powers of attorney and appoints the following attorneys and agents with full power of substitution to prosecute said application, to make alterations and amendments therein, to file continuing applications claiming the benefit of said application, to receive the patent and to transact all business before the U.S. Patent and Trademark Office in connection therewith: Paul Coletti, Reg. No. 32,019, Mark Warfield, Reg. No. 33,463; Bernard E. Shay, Reg. No. 32,061; Mayumi Maeda, Reg. No. 40,075; and all Johnson & Johnson attorneys associated with Customer No. 27,777.

Please address all correspondence and any communications with respect to said application to Johnson & Johnson, International Patent Law Division, Attention Philip Johnson, P.O. Box 1222, New Brunswick, New Jersey 08903. All telephone calls should be directed to Bernard Shay at (408) 956-4066.

In accordance with 37 CFR 3.73(b), I certify that I am empowered to act on behalf of the Assignee of the entire right, title and interest in the above-identified patent application by virtue of an Assignment recorded on July 12, 1996 at Reel 8030, Frame 0440; and thereafter by various corporate name changes. Copies evidencing such corporate name changes are attached hereto for reference.

Signed at Milpitas, in the County of Santa Clara and State of California, this 20<sup>th</sup> day of August 2004.

  
Bernard E. Shay  
Reg. No. 32,061  
Assistant Secretary

Johnson & Johnson  
International Patent Law Division  
Attention: Philip Johnson  
P.O. Box 1222  
New Brunswick, New Jersey 08903

SELF.P-005-US

## ASSIGNMENT

WHEREAS, we, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, have made an invention entitled DISPOSABLE GLUCOSE TEST STRIPS, AND METHODS AND COMPOSITIONS FOR MAKING SAME as set forth in an application for letters of the United States Serial No. 08/601,223 filed on February 14, 1996;

WHEREAS, SELFCARE, INC., a company organized under the laws of the State of Massachusetts and having a place of business at 200 Prospect Avenue, Waltham, MA 02154, is desirous of acquiring all right, title and interest in and to said invention and any improvements thereon, and in and to said application for Letters Patent therefor, and any Letters Patent which may be obtained therefor;

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN, BE IT KNOWN, that we, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, for and in consideration of the sum of One Dollar (\$1.00), lawful money of the United States, to me in hand paid by SELFCARE, INC., and other valuable consideration unto me moving from SELFCARE, INC., at or before the ensealing and delivery of these presents, the receipt of which is hereby acknowledged, have sold, assigned, transferred and conveyed and by these presents do sell, assign, transfer and convey, unto said SELFCARE, INC., its successors and assigns, the entire right, title and interest in and to said invention entitled DISPOSABLE GLUCOSE TEST STRIPS, AND METHODS AND COMPOSITIONS FOR MAKING SAME as set forth in application for Letters Patent of the United States Serial No. 08/601,223, and in and to said application and any division, continuation or continuation-in-part thereof, and in and to any Letters Patent of the United States which may be issued on any of said applications, and any reissues thereof, and in and to any applications for Letters Patent filed in foreign countries for said invention or improvements including all priority rights, and any and all Letters Patent which may be granted in foreign countries therefor, TO HAVE AND TO HOLD THE SAME to the full end of the term or terms for which any and all said Letters Patent may be granted;

AND WE, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, do hereby authorize and request the Commissioner of Patent and Trademarks of to issue said Letters Patent of the United States to SELFCARE, INC. as the assignee of the entire right, title and interest in and to the same, for the sole use and benefit of SELFCARE, INC., its successors and assigns;

AND WE, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, for the considerations aforesaid, do hereby covenant and agree to and with SELFCARE, INC., its successors and

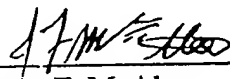


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assigns, that we have the full power to make this assignment, and that the rights assigned are not encumbered by any grant, license or right heretofore given, and that we, our executors and administrators, shall and will do all lawful acts and things and make, execute and deliver without further compensation, any and all instruments in writing, further applications, papers, affidavits, powers of attorney, assignments and other documents which, in the opinion of counsel for SELFCARE, INC., its successors or assigns, may be required or necessary more effectively to secure to and vest in SELFCARE, INC., its successors and assigns, the entire right, title and interest in and to said invention and improvements, applications, Letters Patent, rights, titles, benefits, privileges, and advantages hereby sold, assigned, transferred and conveyed, and that we will sign any applications for reissue which may be desired by the owner of the patent or patents which may be issued for the said invention or improvements.

IN WITNESS WHEREOF, WE, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, have hereunto set our hands and seals on the date written below.

date 1st July '96

  
Jerome F. McAleer

date \_\_\_\_\_

\_\_\_\_\_  
David Scott

date \_\_\_\_\_

\_\_\_\_\_  
Geoff Hall

date 1st July 1996

  
Manuel Icaza-Alvarez

date July 1, 1996

  
Elliott V. Plotkin

SELF-P-003-US

# ASSIGNMENT

WHEREAS, we, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, have made an invention entitled DISPOSABLE GLUCOSE TEST STRIPS, AND METHODS AND COMPOSITIONS FOR MAKING SAME as set forth in an application for letters of the United States Serial No. 08/601,223 filed on February 14, 1996;

WHEREAS, SELFCARE, INC., a company organized under the laws of the State of Massachusetts and having a place of business at 200 Prospect Avenue, Waltham, MA 02154, is desirous of acquiring all right, title and interest in and to said invention and any improvements thereon, and in and to said application for Letters Patent therefor, and any Letters Patent which may be obtained therefor;

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN, BE IT KNOWN, that we, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, for and in consideration of the sum of One Dollar (\$1 00), lawful money of the United States, to me in hand paid by SELFCARE, INC., and other valuable consideration unto me moving from SELFCARE, INC., at or before the en sealing and delivery of these presents, the receipt of which is hereby acknowledged, have sold, assigned, transferred and conveyed and by these presents do sell, assign, transfer and convey, unto said SELFCARE, INC., its successors and assigns, the entire right, title and interest in and to said invention entitled DISPOSABLE GLUCOSE TEST STRIPS, AND METHODS AND COMPOSITIONS FOR MAKING SAME as set forth in application for Letters Patent of the United States Serial No. 08/601,223, and in and to said application and any division, continuation or continuation-in-part thereof, and in and to any Letters Patent of the United States which may be issued on any of said applications, and any reissues thereof, and in and to any applications for Letters Patent filed in foreign countries for said invention or improvements including all priority rights, and any and all Letters Patent which may be granted in foreign countries therefor, TO HAVE AND TO HOLD THE SAME to the full end of the term or terms for which any and all said Letters Patent may be granted.

AND WE, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, do hereby authorize and request the Commissioner of Patent and Trademarks of to issue said Letters Patent of the United States to SELFCARE, INC. as the assignee of the entire right, title and interest in and to the same, for the sole use and benefit of SELFCARE, INC., its successors and assigns;

AND WE, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, for the considerations aforesaid, do hereby covenant and agree to and with SELFCARE, INC., its successors and

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assigns, that we have the full power to make this assignment, and that the rights assigned are not encumbered by any grant, license or right heretofore given, and that we, our executors and administrators, shall and will do all lawful acts and things and make, execute and deliver without further compensation, any and all instruments in writing, further applications, papers, affidavits, powers of attorney, assignments and other documents which, in the opinion of counsel for SELF CARE, INC., its successors or assigns, may be required or necessary more effectively to secure to and vest in SELF CARE, INC., its successors and assigns, the entire right, title and interest in and to said invention and improvements, applications, Letters Patent, rights, titles, benefits, privileges, and advantages hereby sold, assigned, transferred and conveyed, and that we will sign any applications for reissue which may be desired by the owner of the patent or patents which may be issued for the said invention or improvements

IN WITNESS WHEREOF, WE, JEROME F. McALEER, DAVID SCOTT, GEOFF HALL, MANUEL ICAZA-ALVAREZ and ELLIOTT V. PLOTKIN, have hereunto set our hands and seals on the date written below.

date \_\_\_\_\_

\_\_\_\_\_  
Jerome F. McAleer

date 01/July/96

\_\_\_\_\_  
D. Scott  
David Scott

date 1/7/96

\_\_\_\_\_  
G. F. Hall  
Geoff Hall

date \_\_\_\_\_

\_\_\_\_\_  
Manuel Icaza-Alvarez

date \_\_\_\_\_

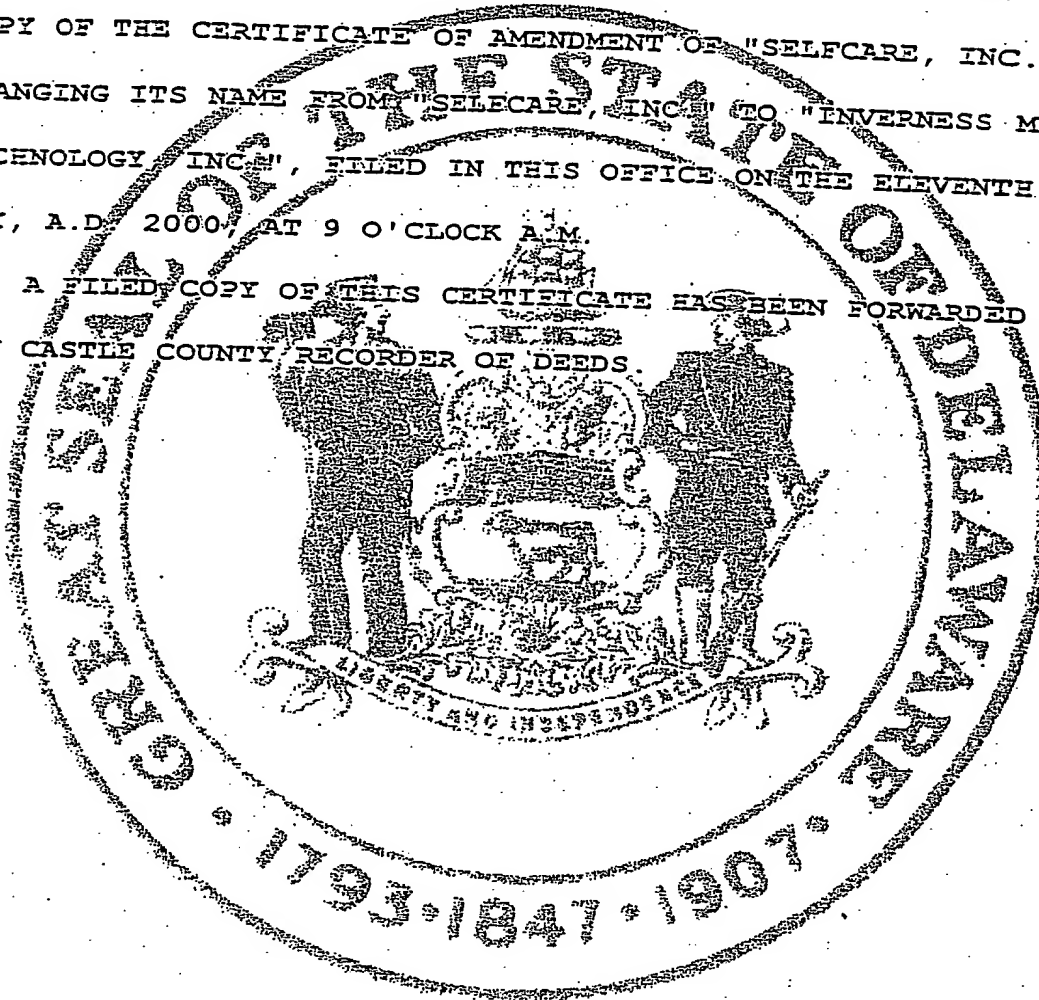
\_\_\_\_\_  
Elliott V. Plotkin

## Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SELF CARE, INC.", CHANGING ITS NAME FROM "SELE CARE, INC." TO "INVERNESS MEDICAL TECHNOLOGY, INC.", FILED IN THIS OFFICE ON THE ELEVENTH DAY OF MAY, A.D. 2000, AT 9 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



Edward J. Freel, Secretary of State

2307627 8100

001239795

AUTHENTICATION:

DATE:

0432174

05-11-00

CERTIFICATE OF AMENDMENT  
TO  
AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
SELF CARE, INC.

The undersigned, in order to amend the Amended and Restated Certificate of Incorporation under and pursuant to the provisions of the General Corporation Law of the State of Delaware, does hereby certify as follows:

FIRST: That by the unanimous written consent of the Board of Directors of SELF CARE, INC., a resolution was adopted setting forth a proposed amendment of the Amended and Restated Certificate of Incorporation of said corporation, declaring said amendment to be advisable and directing that such amendment be considered at the next annual meeting of the stockholders. The amendment proposed and recommended by the Board of Directors is as follows:

That ARTICLE I, entitled "NAME", of this corporation's Amended and Restated Certificate of Incorporation be amended so that, as amended, ARTICLE I shall be and read in its entirety as follows:

"The name of the Corporation is:

INVERNESS MEDICAL TECHNOLOGY, INC."

SECOND: That thereafter, at the annual meeting of the Corporation's stockholders duly called and held on May 9, 2000, a majority of the outstanding stock entitled to vote thereon voted in favor of the amendment in accordance with the requirements of the Corporation's By-laws and the provisions of Sections 216 and 242(b)(1) of the General Corporation Law of the State of Delaware.

THIRD: That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said SELF CARE, INC., has caused this certificate to be signed by Ron Zwanziger, its Chairman, President and CEO, and attested to by Kenneth D. Legg, its Secretary, this 9<sup>th</sup> day of May, 2000.

By: Ron Zwanziger  
Ron Zwanziger,  
Chairman, President and CEO

ATTEST

Kenneth D. Legg  
Kenneth D. Legg,  
Secretary



*State of Delaware*  
*Office of the Secretary of State*

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PAGE 1

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"SUNRISE ACQUISITION CORP.", A DELAWARE CORPORATION,  
WITH AND INTO "INVERNESS MEDICAL TECHNOLOGY, INC." UNDER THE NAME OF "SUNRISE ACQUISITION CORP.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-FIRST DAY OF NOVEMBER, A.D. 2001, AT 3:55 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF MERGER IS THE TWENTY-FIRST DAY OF NOVEMBER, A.D. 2001, AT 4 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 1460558

DATE: 11-21-01

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CERTIFICATE OF MERGER

OF

SUNRISE ACQUISITION CORP.

WITH AND INTO

INVERNESS MEDICAL TECHNOLOGY, INC.

Pursuant to Section 251 of the General Corporation Law of the State of Delaware (the "DGCL"), Inverness Medical Technology, Inc., a Delaware corporation ("Inverness"), hereby certifies as follows:

FIRST: The name and state of incorporation of each of the constituent corporations to the merger (the "Constituent Corporations") are as follows:

<u>Name</u>	<u>State of Incorporation</u>
Sunrise Acquisition Corp.	Delaware
Inverness Medical Technology, Inc.	Delaware

SECOND: An Agreement and Plan of Split-off and Merger dated as of May 23, 2001 (the "Merger Agreement"), among Johnson & Johnson, a New Jersey corporation ("Johnson & Johnson"), Sunrise Acquisition Corp., a Delaware corporation and a wholly owned subsidiary of Johnson & Johnson, and Inverness, has been approved, adopted, certified, executed and acknowledged by each of the Constituent Corporations in accordance with Section 251 of the DGCL.

THIRD: The surviving corporation of the merger shall be Inverness (the "Surviving Corporation"). At the effective time of the merger, the name of the Surviving Corporation of the merger shall become Sunrise Acquisition Corp.

FOURTH: The Amended and Restated Certificate of Incorporation of Inverness as in effect immediately prior to the time this Certificate of Merger is filed with the Secretary of State of the State of Delaware shall be the Certificate of Incorporation of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable law, except that Article I thereof shall be amended to read in its entirety as follows: "The name of the Corporation is Sunrise Acquisition Corp."

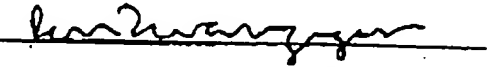
FIFTH: The executed Merger Agreement is on file at an office of the Surviving Corporation, located at One Johnson & Johnson Plaza, New Brunswick, NJ 08933.

SIXTH: A copy of the Merger Agreement will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of either Constituent Corporation.

SEVENTH: This Certificate of Merger, and the merger provided for herein, shall become effective at 4:00 p.m. Eastern Standard Time on November 21, 2001.

IN WITNESS WHEREOF, Inverness has caused this  
Certificate of Merger to be executed as of November 21,  
2001.

INVERNESS MEDICAL TECHNOLOGY, INC.,

by 

Name: Ron Zwanziger  
Title: Chief Executive Officer

*State of Delaware*  
*Office of the Secretary of State*

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PAGE 1

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SUNRISE ACQUISITION CORP.", CHANGING ITS NAME FROM "SUNRISE ACQUISITION CORP." TO "DIABETES DIAGNOSTICS, INC.", FILED IN THIS OFFICE ON THE TWENTIETH DAY OF DECEMBER, A.D. 2001, AT 12 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 1524285

DATE: 12-21-01

2307627 8100

010660766

CERTIFICATE OF AMENDMENT  
OF CERTIFICATE OF INCORPORATION  
OF SUNRISE ACQUISITION CORP.

The undersigned, in order to amend the Certificate of Incorporation of Sunrise Acquisition Corp. under and pursuant to the provisions of the General Corporation Law of the State of Delaware, does hereby certify as follows:

FIRST: That by the unanimous written consent of the Board of Directors of Sunrise Acquisition Corp., a resolution was adopted setting forth a proposed amendment of the Certificate of Incorporation of such corporation, such amendment was declared advisable by the Board of Directors and the Board of Directors directed that such amendment be considered for approval by Johnson & Johnson, a Delaware corporation and the sole stockholder of all of the issued and outstanding shares of common stock of the Corporation ("Johnson & Johnson"). The amendment proposed and recommended by the Board of Directors is as follows:

The first sentence of Article I, entitled "NAME", of the Certificate of Incorporation of Sunrise Acquisition Corp., shall be amended to read in its entirety as follows: "The name of the corporation is Diabetes Diagnostics, Inc."

SECOND: That thereafter, pursuant to the requirements of Sections 242(b)(1) and 228 of the General Corporation Law of the State of Delaware, Johnson & Johnson, by written consent in lieu of a stockholder meeting, consented to the adoption of, and adopted and approved, the amendment.

THIRD: That such amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

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